

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, BOX H
BOULDER, MT 59632
PHONE 406-225-4025
FAX 406-225-4148

KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
June 12, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Mike Hoffman, County Planner; Matt Johnson, County Attorney; Jim Taylor and Trevor Taylor, Tech-Net; Eric LeLacher, Elkhorn Goldfields; Tom Weitz, O.T. Mining; Kevin Everette, Power Engineers; Ted Williams, Ray Cordero, Jason Merkel, Tom Pankratz, Dave Gates and John Fitzpatrick, NorthWestern Energy; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Ernie Kenison

MINUTES

Commissioner Weber moved to approve the minutes of May 15. Commissioner Notbohm seconded. The motion carried.

Commissioner Weber moved to approve the minutes of June 5. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of May Clerk and Recorder fees from the Clerk and Recorder.

Receipt of May expense and revenue reports from the Clerk and Recorder.

CALENDAR REVIEW

6/13 Meeting with Anna Cossel of HUB Insurance - 1:30
6/14 MACo District meeting - Dillon - 10:00
Library Board - 6:30
BLM meeting - Clancy - 7:00

COMMISSION REPORTS

MSU EXTENSION

Commissioner Weber reported that he was in Virginia City on the 4th to meet with the Madison County Commissioners and Steve Sieglan of MSU. The issue of the meeting is that Cameron Clark has not received tenure. He currently has a terminal contract July 1 through June 30, 2008. Madison County has also approached MSU regarding getting their own agent rather than sharing an agent with Jefferson County. They discussed coverage, which has been lacking on the north end of Jefferson County and the south end of Madison County. This is somewhat of a good time to be discussing this, as it is budget time. Both Commissions may want to get together to discuss this also.

ROAD ISSUES

Commissioner Weber stated that he was in Missoula on the 5th to meet with Mark Lodine. Mark is with the Forest Service and teaches road law classes. He tried to pin Mark down on some issues, but he was not a lot of help and kept saying that it would be up to the court to make the final decisions. Commissioner Notbohm asked which court, and where. Commissioner Weber stated that this would depend. Cases would ultimately end up in San Francisco if they weren't settled at more local courts. He noted that there is a push to have another circuit court created more local to the western states.

ROADS

Commissioner Lythgoe stated that he has been dealing with a lot of road issues over the past week.

HEALTH BOARD

Commissioner Lythgoe reported on the Health Board meeting held on Thursday night. The board discussed hiring a new nurse, and have made someone an offer.

JLDC

Commissioner Lythgoe reported that he attended the JLDC yearly planning session that morning in Whitehall. He stated that the meeting is still underway, but he had to leave to attend this meeting.

JLDC AD HOC COMMITTEE

Commissioner Notbohm stated that he attended the JLDC Ad Hoc committee meeting the previous day. Tom Harrington and Tara Mastel were in attendance. The agreement is currently with the attorneys at MSU. They also discussed the budget for the coming year.

SUBDIVISION REVIEW

AMEND PRELIMINARY PLAT APPROVAL - VISTAS (BABIN) MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report and stated that the developer is asking for a variance to allow for the road curvature radius to fall before the standard of 249 feet at 30

miles per hour to a minimum curvature radius of 150 feet at 25 miles per hour, and also for a variance to allow for the construction of the approaches of Roads 1 and 2 to be built without installation of a culvert at the intersections with Lump Gulch Road. Commissioner Weber stated that the design of the curvature is set to meet the speed requirement that the County cannot go below without an engineered speed study. He asked since an engineer did the road design, if that would meet the requirement. It was thought that it would.

Commissioner Weber asked about the variance regarding the culverts. Mike stated that it is an elevated position, so the water will drain off of either side of the approach. Commissioner Notbohm noted that this is on the shaded side of the road, and that when approaches are built, it changes things a bit. Commissioner Lythgoe stated that there doesn't appear to be much of a ditch. Commissioner Notbohm agreed that this is true. Commissioner Lythgoe stated that this seems to be a problem. Even with a culvert, there is no where for the water to go. Mike stated that Joe has required the developer to clean the ditch. Commissioner Notbohm stated that if this is the case, it would seem that culverts would be needed.

Commissioner Weber suggested that they discuss the items individually. Regarding the request to allow the curvature to fall below standards, he asked the engineers if they were aware of the MDT requirement for an engineered speed study to set speed limits below 35 mph. Jim Taylor stated that he is not familiar with that, but he is familiar with the design standards. He also noted that a speed study requires that a road be in place to study. Commissioner Weber stated that safety is paramount, but noted that there are requirements to fall below 35 mph. Jim stated that it is common in mountainous areas to have 25 mph speed limits. Commissioner Lythgoe stated that he is guessing that the curvature of the road is obvious. He has to believe that for purposes of safety that lower speed limits can be assigned.

Commissioner Weber stated, regarding the request for no culverts, the pictures tell the tale of water standing. If they ditch the road, it may make matters worse. Jim stated that they don't want retention ponds in the barrow ditch.

Commissioner Lythgoe stated that he thinks that they need to have a conversation with Joe; he is not sure if the ditch is necessary or even appropriate. Commissioner Notbohm stated that the only problem he would have, even with a nice wide access, it seems that they will have some flow back into the subdivision.

Commissioner Lythgoe moved to approve the amended preliminary plat approval for the Vistas (Babin) Minor Subdivision, and also grant the requested variances, with the caveat that they talk to Joe about the drainage issue. Commissioner Notbohm seconded. Mike stated that they could scratch the variance for the culvert, if they are not comfortable with it. He knows that Joe is not in favor of any variance. The motion failed.

Commissioner Lythgoe moved to approve the amended preliminary plat for the Vistas (Babin) Minor Subdivision, including variance request #1. The Commission will deal with the culvert and ditch in the approach permits. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

AWARD BID FOR SOUTH HILLS RID/RMD

Commissioner Weber stated that the Commission has received a letter from Great West Engineering with a recommendation for the bid award. They recommended that the base bid without the deduct be awarded to Bullock Contracting.

Commissioner Weber moved to award the bid to Bullock Contracting. Commissioner Notbohm seconded. The motion carried.

Commissioner Lythgoe stated that he got a call from Buster before the meeting with a request to waive the bond. They are a small firm and this would restrict their ability to bid other jobs. Commissioner Weber asked Matt for his opinion. Matt asked if it was a bid requirement that a bond is required. It was stated that it was. Matt stated that being the case, they need to require it. Commissioner Lythgoe moved to excuse the bond on this project. Commissioner Weber seconded. Commissioner Notbohm stated that they need to take the advise of their attorney regarding the letter of credit. This is not the proper way to do business. Matt stated that if it is put in the specifications that a bond is required, then all bidders expect to have the bond required. The motion failed with Commissioners Notbohm and Weber voting nay and Commissioner Lythgoe voting aye.

DISCUSS AND DECIDE ON INTERVENER STATUS ON LAWSUIT WITH FOREST SERVICE IN SUPPORT OF O.T. MINING

Commissioner Weber stated that this would be a pre-emptive action; there is no appeal at this time, but Eric Tolf felt that there might be. He spoke with Fess Foster recently, who felt that it would be a good show of cooperation between O.T., the Forest Service and the Commission. He asked Matt for his input. Matt stated that he doesn't have a lot of information at this time. A lawsuit will have a plaintiff and defendant, and you can stand with one side or the other. He is not sure what our interest would be. He feels that this would need a separate hearing in the future. He is also not sure if his office would be able to handle the additional case load.

Commissioner Weber asked the difference in being an intervener and filing an amicus brief. Matt stated that with intervener status, you become a party to the suit; he is not sure how much weight an amicus brief has. He would like to see the reasoning before the county jumps in. Commissioner Weber asked how much standing Jefferson County would have to be involved, based on mining, revenue, etc. Matt stated that this would be an argument, but there may be better arguments out there. Commissioner Lythgoe stated that he would agree with the County Attorney that this is not a moment to decide. They need to find out more about what is going on and then get the information and make a decision. Commissioner Weber stated that his problem is the time factor, they have to put items on the agenda two weeks out. Commissioner Lythgoe noted that with legal issues, there is the possibility of an emergency meeting.

DISCUSS MOUNTAIN STATES TRANSMISSION INTER-TIE PROJECT - NORTHWESTERN ENERGY

Dave Gates, NorthWestern Energy, gave an outline of the project to build a new transmission line between southwestern Montana and southeastern Idaho, and the reasons the transmission lines are needed. There will be 10 to 45 miles of new line in Jefferson County, and a 200 to 220 foot right-of-way will be needed. There will be a three-year process to site and get a record of decision, and they hope to start construction in 2010.

Kevin Everett stated that he represents the consulting firm for this project and will certify compliance through the state. He noted that they will probably be back before the Commission in six months with the preferred route. He stated that many agencies and entities will be involved with this. They need input from the Commission, and he gave the dates and times when open houses will be held in the near future. A website has been built and a newsletter will also be going out. Commissioner Weber asked if the County is successful with getting a wind farm in the Whitehall area, if these projects would have any impact on each other. Dave stated that this could open up the opportunity for wind projects in the state. Commissioner Lythgoe asked the estimated cost for the project. Dave stated that the route is not decided, but it is estimated at about \$800 million. Commissioner Notbohm asked if they are planning for a potential hook-up to Canada. Dave stated not for this particular line, although they all will be compatible.

Commissioner Weber thanked everyone for coming, and stated that the Commission appreciates the information. Kevin stated that regarding the wind farm, a lot of power companies are coming up with new goals for renewable energy, so this is a good time to pursue this.

APPOINT MEMBERS TO THE NORTH-END METAL MINES GRANT COMMITTEE

Commissioner Weber stated that four people have submitted applications to serve on the north-end metal mines grant committee. These people are: Darrell Miller, Bob Marks, Ernie Kennison and Sheila Hogan.

Commissioner Weber moved to appoint all four to get the board started. Commissioner Notbohm seconded. He noted that at least one of these people also sits on the JLDC, and asked if there is any conflict. Commissioner Weber stated that on the south end, if a member is involved with an applicant group, they can recuse themselves from the vote. The motion carried.

DISCUSS AND DECIDE ON ROAD USE AGREEMENT WITH ELKHORN GOLDFIELDS, INC.

Commissioner Lythgoe stated that this is an agreement between Jefferson County and Elkhorn Goldfields to improve the road to the mine. Goldfields will be transporting ore from Elkhorn to Tunnels to be processed, and they will be improving the road. Eric LaLacheur stated that they have discussed their plans with the citizen in Elkhorn and the citizens along the road, and some changes will need to be made to the contract after those discussions. They also need to meet with the Road Supervisor again. They have had one public meeting with the residents and will be having another on the 23rd.

DISCUSS AND DECIDE ON CONTRACT FOR PAYMENT OF TAXES - ROSE BULLOCK

Commissioner Weber read the contract prepared by the County Attorney (on file in the Clerk and Recorder's office). Commissioner Lythgoe moved to enter into the agreement. Commissioner Notbohm seconded. Commissioner Lythgoe noted that the Commission has entered into these agreements in the past, and this is appropriate. The motion carried.

APPOINT FIRE TRUSTEES

Commissioner Weber moved to appoint Julia Chase to the Basin Fire Trustee board and Sam Samson to the Bull Mountain Fire Trustee board for three year terms. Commissioner Notbohm seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER